

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-2(c)

William G. Wright

CAPEHART & SCATCHARD, P.A.

8000 Midlantic Drive, Suite 300 S

Mt. Laurel, New Jersey 08054

(856) 234-6800

Attorneys for Graybar Electric Company, Inc.

In Re:

HOLLISTER CONSTRUCTION SERVICES, LLC,

Debtor.

Chapter 11

Case No. 19-27439 (MBK)

Hearing Date: October 8, 2019 at 11:30 a.m.

LIMITED OBJECTION AND RESERVATION OF RIGHTS OF GRAYBAR ELECTRIC COMPANY, INC. TO THE MOTION OF NEWARK WAREHOUSE REDEVELOPMENT COMPANY, NEWARK WAREHOUSE URBAN RENEWAL, LLC. FOR AN ORDER (I) CONFIRMING THAT THE GMP CONTRACT IS NOT PROPERTY OF THE ESTATE AND THAT THE AUTOMATIC STAY DOES NOT APPLY TO THE GMP CONTRACT OR, IN THE ALTERNATIVE, GRANTING RELIEF FROM THE AUTOMATIC STAY PURSUANT TO 11 U.S.C. 362(D)(1), AND (II) GRANTING RELATED RELIEF [DOCKET NO. 170]

Graybar Electric Company, Inc., by and through its undersigned counsel, hereby files this Limited Objection and Reservation of Rights to the *Motion For An Order (I) Confirming That The GMP Contract Is Not Property Of The Estate And That The Automatic Stay Does Not Apply To The GMP Contract Or, In The Alternative, Granting Relief From The Automatic Stay Pursuant To 11 U.S.C. 362(D)(1), And (Ii) Granting Related Relief [Docket No. 170]* (the “Motion”) filed by Newark Warehouse Redevelopment Company and Newark Warehouse Urban Renewal, LLC. (collectively, the “NWR Entities”).

RELEVANT FACTUAL BACKGROUND

A. The Chapter 11 Case

1. On September 11, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the “Bankruptcy Code”).
2. The Debtor is operating its business and managing its assets as debtor in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.
3. On September 23, 2019, the United States Trustee for the District of New Jersey appointed an Official Committee of Unsecured Creditors.

B. Graybar

4. As detailed below, Graybar was a supplier on the Project that is the subject of the Motion.
5. Commencing on or about July 6, 2017, Graybar received a series of written purchase orders (the “Purchase Orders”) from Starlite Electric LLC by which Graybar was requested to supply and deliver electrical material for use in the Project and the improvement of the Property.
6. The Purchase Orders totaled \$670,544.02 together with sales tax of \$24,051.84, for a total contract price of \$694,595.86.
7. At the time Graybar made its final deliveries of material to Starlite for use in the Project, its invoices totaled \$694,595.86.
8. Starlite Electric failed to pay Graybar in full for the materials provided pursuant to the Purchase Orders as required by the terms of the Credit Account.
9. A balance remained of \$452,850.06.
10. As a result, on or about March 28, 2019, Graybar caused a Construction Lien claim in the amount of \$452,850.06 (the “Lien Claim”) to be filed with the Essex County Clerk.

11. The Lien Claim was filed within 90 days of the date when Graybar made its final deliveries of material to the Project which pertained to the amount sought in the Lien Claim, as required by NJSA 2A:44A-6.

12. Graybar commenced an action on May 10, 2019, in the Superior Court of New Jersey, Law Division, Essex County, under docket number L-4118-19 to foreclose on the Lien Claim, as required by NJSA 2A:44A-14(a)(1).

13. That action is still pending but has been stayed by Debtor's bankruptcy filing in this matter.

LIMITED OBJECTION

14. Graybar is unable to determine whether the Motion is meritorious without having full and complete copies of the Contract and Amendment to Contract attached as Exhibits "A" and "B," respectively to the Certification of Pasquale Suriano filed as part of the Motion.

15. Graybar requested this afternoon full and complete copies of both documents but has not received them as of the filing of this Limited Objection and Reservation of Rights.

16. Given that today is the deadline for filing objections to the Motion, Graybar files this limited objection.

RESERVATION OF RIGHTS

17. Graybar reserves the right to withdraw, modify, or supplement this Limited Objection and Reservation of Rights. In addition, Graybar hereby reserves and preserves any and all rights afforded to it, either at law or in equity, to (i) enforce its rights and interests under the Purchase Orders and the Lien Claim, and/or (ii) to take such other action as Graybar may deem necessary and appropriate to preserve, protect, and enforce its rights under the Purchase Orders and the Lien Claim or other applicable law.

Respectfully submitted,

Dated: October 4, 2019

/s/ William G. Wright
CAPEHART & SCATCHARD, P.A.
William G. Wright (NJ ID No. 022481980)
A Professional Corporation
8000 Midlantic Drive, Suite 300 S
Mt. Laurel, New Jersey 08054
Telephone: (856) 234-6800
Facsimile: (856) 235-2786
E-Mail: wwright@capehart.com

Counsel for Graybar Electric Company, Inc.